## STATUS OF THE CLAIMS

Claims 1-51 were pending in this application. Claims 11-13, 16, 26-28, 30-33, 36-39, and 41-45 have been amended. Claims 15, 21, 22, 40, 46, and 47 are cancelled. Claims 52 and 53 are new. Following entry of the amendments claims 1-14, 16-20, 23-45, and 48-53 will be pending. Support for the new claims is found throughout the application, including at paragraphs 42-54.

## CLAIM OBJECTIONS

Claims 26-33, 38, and 41-47 are objected to for reciting the phrase "program code for." The Examiner asserts that the recitation of "for" is a statement of intended use and never actually takes place. While Applicants believe that the claims did not use the phrase as a statement of intended use, Applicants have amended the claims in the manner suggested by the Examiner to expedite prosecution. The amended claims recite "program code configured to" perform an action. Therefore, Applicants respectfully request that the Examiner remove the objections.

## DOUBLE PATENTING

Claim 16 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 20 of copending Application No. 11/051,317. Applicant respectfully requests that this provisional rejection be held in abeyance and reconsidered in view of the amendments to claim 16 made herein and amendments made to claim 20 in Application No. 11/051,317.

## CLAIM REJECTIONS - §101

Claims 26-50 are rejected under § 101 for allegedly being directed to non-statutory subject matter. Specifically, the Examiner assets that the claims are directed toward software per se. Applicants traverse this rejection as applied to the amended claims.

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The preambles of independent claims 26, 38, and 41 have been amended to recite "a computer-readable **storage** medium containing **executable** program code." A computer-readable storage medium constitutes patentable subject matter. The MPEP recognizes the statutory nature of such claims at § 2106.01, where it states "When functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized." Accordingly, Applicants respectfully submit that the amended claims are directed to statutory subject matter and request that the Examiner withdraw the § 101 rejection.

## REJECTIONS UNDER 35 U.S.C. § 102

Claims 1-8, 13-15, 26-33, 38-40 and 51 are rejected under 35 U.S.C. § 102(e) as being anticipated by Spector Corporate Network Edition 4.0 ("Spector"). Applicants traverse this rejection.

Independent claim 1 recites:

receiving a plurality of keystrokes associated with an application;
processing each keystroke **to determine an associated action** forming a plurality of associated actions; and
**determining an event based** at least in part **on the** plurality of **associated actions**.

Spector does not teach or suggest determining an event based at least in part on a plurality of associated actions, where the associated actions are determined by processing keystrokes. Spector discloses an application that can be used to record keystrokes performed on a computer. An administrator selects a program option that controls whether keystrokes are recorded. If the option is selected, Spector records all keystrokes typed on the computer. Spector, page 6.

However, Spector simply records the keystrokes; it does not process the keystrokes to determine associated actions or determine an event based at least in part on associated actions. In rejecting claim 1, the Examiner cites to the "snapshot" feature disclosed on page 2 of Spector.

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This feature works by "periodically storing an image of what the computer user was seeing." Spector, page 2. In other words, the snapshots are merely screenshots and are not events determined based at least in part on the plurality of associated actions determined by processing keystrokes. Accordingly, Applicants respectfully submit that claim 1 is not anticipated by Spector and request that the Examiner withdraw the rejection. Claims 26 and 51 are not anticipated for at least the same reasons.

Claim 13 recites:

determining an event based on user input comprising a plurality of keystrokes associated with an application;
**determining an importance** of the event; and
**selectively indexing the event** responsive to the importance of the event.

Applicants respectfully submit that Spector does not determine the importance of an event or selectively index the event responsive to its importance. Features related to "determining an importance of the event" were previously recited by claim 15, which the Examiner rejected based on pages 9-10 of Spector. These pages describe how a user can configure Spector to monitor and record selected Windows applications. In addition, the Examiner asserts that the "indexing" is disclosed at page 2, lines 5-6, where Spector teaches that events are stored as individual records.

However, Spector does not determine an importance of an event and selectively index the event responsive to its importance. Under the Examiner's interpretation, any event recorded by Spector is by definition important and indexed. Accordingly, Spector has no need to determine an event's importance or selectively index it. Furthermore, Spector does not even disclose that events are indexed; it merely states that events are "stored." Accordingly, Applicants respectfully submit that amended claim 13 is not anticipated by Spector, and request that the

Examiner withdraw the rejection. Claims 16, 38, and 41 are not anticipated for at least the same reasons.


## REJECTIONS UNDER 35 U.S.C. § 103

Claims 9-12 and 34-37 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Spector in view of Cason et al. (U.S. Patent No. 4,410,957). Claims 16-25 and 41-50 are rejected under § 103(a) as being unpatentable over Spector in view of Jade et al. (U.S. Pub. No. 2003/0001854). Applicants respectfully traverse these rejections as applied to the amended claims.

Cason fails to remedy the deficiencies of Spector. Cason discloses a keyboard access system for interfacing a keyboard and the programs of a text processing machine. Cason does not teach or suggest processing keystrokes to determine associated actions or determining an event based on a plurality of associated actions. Likewise, Cason does not teach or suggest determining an importance of an event or selectively indexing the event response to its importance.

Jade also fails to remedy the deficiencies of Spector. Jade discloses a mechanism for capturing one or more graphics primitives drawn to a user interface by an executing application. Like Cason, Jade does not teach or suggest processing keystrokes to determine associated actions, determining an event based on a plurality of associated actions, determining an importance of an event, or selectively indexing the event response to its importance.

Accordingly, a person of ordinary skill in the art considering the teaches of Spector, Cason, and Jade, either alone or in combination, would not find the claimed invention obvious. Applicants, therefore, respectfully request that the §103 rejections of the claims be withdrawn.

## CONCLUSION

Based on the foregoing, Applicants request that the §101, §102 and §103 rejections of the pending claims be withdrawn and the application be allowed. The Examiner is invited to contact the undersigned by telephone to advance the prosecution of this application.

Respectfully submitted,

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